



DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2021-02; Exemption

Application No. D-12030]

Exemption from Certain Prohibited Transaction Restrictions

Involving the Goldman Sachs Group, Inc. (Goldman Sachs or

the Applicant) Located in New York, New York

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of exemption.

SUMMARY: This document contains a notice of exemption issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code). The exemption affects the ability of certain entities with specified relationships to Goldman Sachs to continue to rely upon relief provided by Prohibited Transaction Exemption 84-14 (PTE-84-14).

DATES: This exemption will be in effect for a period of up to five (5) years, beginning on the date of the conviction of Goldman Sachs (Malaysia) Sdn. Bhd. (Goldman Sachs Malaysia), an indirect, wholly-owned subsidiary of Goldman Sachs, provided that the conditions set out below in Section I are satisfied.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Brennan of the

Department at (202) 693-8456. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On January 4, 2021, the Department published a notice of proposed exemption in the Federal Register at 86 FR 131, permitting certain entities with specified relationships to Goldman Sachs and Goldman Sachs Malaysia to continue to rely upon the relief provided by PTE 84-14¹ for a period of five years, notwithstanding the criminal conviction of Goldman Sachs Malaysia for conspiracy to violate the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977 (the Goldman Sachs Malaysia FCPA Conviction).

The Department is granting this exemption to ensure that Covered Plans² with assets managed by an asset manager within the corporate family of Goldman Sachs may continue to benefit from the relief provided by PTE 84-14.

The grant of this five-year exemption does not imply that the Department will grant additional relief for the

¹ 49 FR 9494, March 13, 1984, as corrected at 50 FR 41430 (October 10, 1985), as amended at 70 FR 49305 (August 23, 2005) and as amended at 75 FR 38837 (July 6, 2010), hereinafter referred to as PTE 84-14 or the QPAM exemption.

² "Covered Plan" is a plan subject to Part 4 of Title 1 of ERISA ("ERISA-covered plan") or a plan subject to section 4975 of the Code ("IRA") with respect to which a Goldman Sachs Affiliated QPAM or a Goldman Sachs Related QPAM relies on PTE 84-14, or with respect to which a Goldman Sachs Affiliated QPAM or a Goldman Sachs Related QPAM (or any Goldman Sachs affiliate) has expressly represented that the manager qualifies as a QPAM or relies on the QPAM class exemption (PTE 84-14). A Covered Plan does not include an ERISA-covered plan or IRA to the extent the Goldman Sachs Affiliated QPAM or a Goldman Sachs Related QPAM has expressly disclaimed reliance on QPAM status or PTE 84-14 in entering into its contract, arrangement, or agreement with the ERISA-covered plan or IRA.

Goldman Sachs Affiliated QPAMs and the Goldman Sachs Related QPAMs to continue to rely on the relief in PTE 84-14 beyond the end of this exemption's five-year term. This exemption provides only the relief specified in the text of the exemption, and only with respect to the criminal convictions or criminal conduct described herein. It provides no relief from violations of any law other than the prohibited transaction provisions of ERISA and the Code.

The Department intends for the terms of this exemption to promote adherence to basic fiduciary standards under ERISA and the Code. This exemption also aims to ensure that Covered Plans can terminate relationships in an orderly and cost-effective fashion in the event the fiduciary of a Covered Plan determines it is prudent to terminate the relationship with a Goldman Sachs Affiliated QPAM or a Goldman Sachs Related QPAM. The Department makes the requisite findings under ERISA section 408(a) based on adherence to all the conditions of the exemption. Accordingly, affected parties should be aware that the conditions incorporated in this exemption are, taken as a whole, necessary for the Department to grant the relief requested by the Applicant. Absent these or similar conditions, the Department would not have granted this exemption.

The Applicant requested an individual exemption pursuant to section 408(a) of ERISA and section 4975(c) (2)

of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (76 FR 66637, 66644, October 27, 2011). Effective December 31, 1978, section 102 of the Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor. Accordingly, the Department grants this exemption under its sole authority.

Department's Comment

The Department cautions that the relief in this exemption will terminate immediately if an entity within the Goldman Sachs corporate structure is convicted of a crime described in Section I(g) of PTE 84-14 (other than the Goldman Sachs Malaysia Conviction) during the Exemption Period. Although the Goldman Sachs Affiliated QPAMs and the Goldman Sachs Related QPAMs could apply for a new exemption in that circumstance, the Department would not be obligated to grant the exemption. The Department specifically designed the terms of this exemption to permit plans to terminate their relationships in an orderly and cost effective fashion in the event of an additional conviction, or the expiration of this exemption without additional relief, or a determination that it is otherwise prudent for a plan to terminate its relationship with an

entity covered by the exemption.

WRITTEN COMMENTS

The Department invited all interested persons to submit written comments and/or requests for a public hearing with respect to the notice of proposed exemption. In this regard, the Applicant was given seven days to provide notice to interested persons, and all comments and requests for a hearing were initially due by February 10, 2021. However, the Applicant subsequently informed the Department that the Applicant did not provide notice to 968 interested persons within the seven day period. Accordingly, the Department extended the comment period for those persons to March 6, 2021. The Department received two written comments: one from the Applicant and one from a member of the public. After considering the entire record developed in connection with the Applicant's exemption request, the Department has determined to grant the exemption, as described below.

Comments from Goldman Sachs

I. Certification of Audit Report

Section I(i)(8) of the proposed exemption states:
"The Goldman Sachs Board of Directors is provided a copy of the Audit Report; and a senior executive officer of the Audit Committee established by the Goldman Sachs Board of

Directors must review the Audit Report for each Goldman Sachs QPAM and must certify in writing, under penalty of perjury, that such officer has reviewed the Audit Report."

The Applicant states that the Audit Committee of Goldman Sachs' Board of Directors is composed solely of independent directors and, accordingly, there is no Goldman Sachs "senior executive officer" who is an Audit Committee member.

The Applicant requests that the Department revise Section I(i)(8) of the proposed exemption to require that the Audit Report be reviewed by the Chairperson of the Audit Committee and one of: (a) the general counsel of the Goldman Sachs Affiliated QPAM to which the Audit Report applies; (b) one of the three most senior executive officers of the Goldman Sachs Affiliated QPAM to which the Audit Report applies; or (c) the Chief Compliance Officer of Goldman Sachs. The Applicant further requests that the Department replace the language that reads, "and must certify in writing, under penalty of perjury, that such officer has reviewed the Audit Report," with "certify in writing, under penalty of perjury, that a copy of such Audit Report was provided to the Board of Directors and that the Audit Report was reviewed with the Chairperson of the Audit Committee."

Section I(i)(8) of this Exemption: The Department agrees with the Applicant's comment, and Section I(i)(8) of

this exemption is now consistent with the Applicant's request, but has additional clarifying language. Section I(i)(8) of this exemption now reads, in relevant part: "... must certify in writing, under penalty of perjury, that a copy of such Audit Report was provided to the Board of Directors, and that the Audit Report was reviewed with and by the Chairperson of the Audit Committee..."

II. Timing of Notices

A. Notice of Obligations

Section I(j)(7) of the proposed exemption states: "Within four (4) months of the effective date of this five-year exemption, each Goldman Sachs Affiliated QPAM must provide a notice of its obligations under this Section I(j) to each Covered Plan. For Covered Plans that enter into a written asset or investment management agreement with a Goldman Sachs Affiliated QPAM on or after the effective date of this exemption, if granted, the Goldman Sachs Affiliated QPAM must agree to its obligations under this Section I(j) in an updated investment management agreement between the Goldman Sachs Affiliated QPAM and such clients, or other written contractual agreement. Notwithstanding the above, a Goldman Sachs Affiliated QPAM will not violate the condition solely because a Plan or IRA refuses to sign an updated investment management agreement."

The Applicant states that it will be operationally difficult for the Goldman Sachs Affiliated QPAMs to provide

these prospective clients with physical copies of such documents beginning on the effective date, given the various system-driven account opening processes utilized among the impacted lines of business. According to the Applicant, it is probable that many such prospective clients have already received copies of current account opening agreements, which they are reviewing and will sign and return over the following several weeks or months. The Applicant requests clarification that, with respect to Covered Plans that enter into a written investment management agreement on or after the effective date of the exemption, the Goldman Sachs Affiliated QPAMs may provide the updated written investment management agreements within four months of the effective date of the exemption.

Section I(j)(7) of this Exemption: The Department agrees with the Applicant's comment, and Section I(j)(7) of this exemption is now consistent with the Applicant's request.

B. Notice to Covered Plans

Section I(k) of the proposed exemption states: "Within 60 days of the effective date of this five-year exemption, each Goldman Sachs Affiliated QPAM will provide a Federal Register copy of the notice of the exemption, along with a separate summary describing the facts that led to the Goldman Sachs Malaysia FCPA Conviction (the Summary), which has been submitted to the Department, and a

prominently displayed statement (the Statement) that the Goldman Sachs Malaysia FCPA Conviction results in a failure to meet a condition in PTE 84-14, to each sponsor and beneficial owner of a Covered Plan that has entered into a written asset or investment management agreement with a Goldman Sachs Affiliated QPAM, or the sponsor of an investment fund in any case where a Goldman Sachs Affiliated QPAM acts as a sub-advisor to the investment fund in which such ERISA-covered plan and IRA invests. All Covered Plan clients that enter into a written asset or investment management agreement with a Goldman Sachs Affiliated QPAM after that date must receive a copy of the notice of the exemption, the Summary, and the Statement prior to, or contemporaneously with, the Covered Plan's receipt of a written asset or investment management agreement from the Goldman Sachs Affiliated QPAM. The notices may be delivered electronically (including by an email that has a link to the five-year exemption)."

The Applicant requests a revision clarifying that the phrase "Covered Plan clients that enter into a written asset or investment management agreement with a Goldman Sachs Affiliated QPAM after that date" refers to Covered Plans that enter into a written asset or investment management agreement after a date that is sixty days from the effective date of the exemption.

Section I(k) of this Exemption: The Department agrees

with the Applicant's comment, and Section I(k) of this exemption is now consistent with the Applicant's request.

III. Compliance Officer

Section I(m)(1) of the proposed exemption, which provides for designation of a Compliance Officer, states: "Within 60 days of the effective date of this exemption, Goldman must designate a senior compliance officer (the Compliance Officer) who will be responsible for compliance with the Policies and Training requirements described herein... With respect to the Compliance Officer, the following conditions must be met: (i) The Compliance Officer must be a professional who has extensive experience with, and knowledge of, the regulation of financial services and products, including under ERISA and the Code; and (ii) The Compliance Officer must have a direct reporting line within [Goldman's] Audit Committee and a direct reporting line to the highest ranking corporate officer in charge of compliance for the applicable Goldman Sachs Affiliated QPAM."

The Applicant states that this condition, as written, cannot be fulfilled within the Applicant's organization because no compliance officer has a direct reporting line within the Applicant's Audit Committee. The Applicant states that the most senior compliance officer within the organization regularly provides reports directly to the

Audit Committee, but does not formally report to the Committee.

The Applicant further states that, with respect to the second clause of the condition, the most senior compliance officer within the organization (*i.e.*, the only compliance officer with a reporting relationship to the Audit Committee) would not have a reporting line to the highest-ranking compliance officer for any Goldman Sachs Affiliated QPAM, as the former is senior to the latter. In order to ensure the condition is met, the Applicant requests that the condition require appointment of one or more Compliance Officers who are: (i) a compliance officer who regularly reports to the Audit Committee, (ii) the highest-ranking compliance officer at the Goldman Sachs Affiliated QPAM, or (iii) a compliance officer who reports to the highest ranking compliance officer at the QPAM.

In addition, the Applicant requests that the Department provide clarification by confirming that each Goldman Sachs Affiliated QPAM or relevant line of business may designate its own compliance officer.

Section I(m) of this Exemption: The Department agrees, in part, with the Applicant's comment, and Section I(m) of this exemption now allows each Goldman Sachs Affiliated QPAM to designate its own compliance officer. The designated compliance officer must be someone who regularly reports to the Goldman Sachs Audit Committee or

who is the highest-ranking compliance officer at the Goldman Sachs Affiliated QPAM. However, the Applicant has not demonstrated the necessity of allowing a Compliance Officer to include a person who reports to the highest ranking compliance officer at the QPAM.

IV. Other Clarifications

A. Policies and Training

Section I(h)(1) of the proposed exemption states:

"Within four months of the effective date of this five-year exemption, each Goldman Sachs Affiliated QPAM must immediately develop, maintain, implement, and follow written policies and procedures (the Policies)..."

Section I(h)(3) of the proposed exemption states:

"Within six months of the effective date of the exemption, each Goldman Sachs Affiliated QPAM must immediately develop, maintain, adjust (to the extent necessary) and implement a program of training during the Exemption Period, to be conducted at least annually, for all relevant Goldman Sachs Affiliated QPAM asset/portfolio management, trading, legal, compliance, and internal audit personnel..."

The Applicant requests that the Department increase the development period in section I(h)(1) of the proposed exemption to six months. The Applicant states that Goldman Sachs Affiliated QPAMs manage assets for hundreds of ERISA plan mandates through separate accounts, more than 14,000 IRAs, and several collective investment trusts through

various lines of business. The Applicant states that many of those businesses have different compliance officers (along with the various levels within the businesses themselves) that must coordinate to implement and review compliance routines and surveillance measures, as well as oversee the implementation of the Policies. The Applicant states that a six-month period would align with the period for development of the Training, as set forth in Section I(h)(3) of the proposed exemption.

The Applicant requests the corresponding deletion of the term "immediately" in Section I(h)(1) of the proposed exemption (concerning the Policies) and Section I(h)(3) of the proposed exemption (concerning the Training).

Section I(h)(1) and (h)(3) of this Exemption: The Department agrees with the Applicant's comment, and Sections I(h)(1) and I(h)(3) of this exemption are now consistent with the Applicant's request.

B. Completion of Audit Report

Section I(i)(1) of the proposed exemption states: "The first audit must cover the twelve month period that ends on the date that is two years following the date of the Goldman Sachs Malaysia FCPA Conviction, and must be completed within sixty days thereafter. The second audit must cover the twelve month period that ends on the date that is four years following the date of the Goldman Sachs Malaysia FCPA Conviction, and must be within completed

sixty days thereafter. The third audit must cover the fifth year covered by this exemption, and must be completed within sixty days thereafter."

The Applicant requests that, consistent with the Department's other exemptions and in order for the exemption to be workable for any independent auditor selected by the Applicant, the auditor have six months after the close of each audit period to complete the Audit Report for that period.

Section I(i)(1) of this Exemption: The Department agrees with the Applicant's comment, and Section I(i)(1) of this exemption is now consistent with the Applicant's request.

D. Right to Obtain Policies

Section I(r) of the proposed exemption states: "Within 60 days of the effective date of the five-year exemption, each Goldman Sachs Affiliated QPAM, in its agreements with, or in other written disclosures provided to Covered Plans, will clearly and prominently inform Covered Plan clients of their right to obtain a copy of the Policies or a description (Summary Policies) which accurately summarizes key components of the Goldman Sachs Affiliated QPAM's written Policies developed in connection with this exemption..."

The Applicant requests that this condition be modified to provide for notice of Covered Plans' right to obtain the

Policies or Summary Policies within sixty days after the date on which the Policies must be completed under the terms of the exemption, rather than sixty days after the effective date.

Section I(r) of this Exemption: The Department agrees with the Applicant's comment, and Section I(r) of this exemption is now consistent with the Applicant's request.

E. Definition of "Affiliated QPAMs"

Section II(d) of the proposed exemption defines the term "Goldman Sachs Affiliated QPAM" to mean: "The Goldman Sachs Trust Company, N.A.; Goldman Sachs Bank USA; Goldman Sachs & Co. LLC; Goldman Sachs Asset Management, L.P.; Goldman Sachs Asset Management International; Goldman Sachs Hedge Fund Strategies LLC; GS Investment Strategies, LLC; GSAM Stable Value, LLC; The Ayco Company, L.P.; Aptitude Investment Management LP; Rocaton Investment Advisors, LLC; United Capital Financial Advisers, LLC; and PFE Advisors, Inc., and any future 'affiliate' of Goldman (as defined in Part VI(d) of PTE 84-14) that qualifies as a 'qualified professional asset manager' (as defined in Section VI(a) of PTE 84-14) and that relies on the relief provided by PTE 84-14. The term 'Goldman Sachs Affiliated QPAMs' excludes Goldman Sachs Malaysia."

The Applicant requests that the Department modify the definition of Goldman Sachs Affiliated QPAM so that it covers all of the Applicant's current affiliates, not just

the specific existing QPAMs listed in the application and future affiliates.

Section II(d) of this Exemption: The Department agrees with the Applicant's comment, and Section II(d) of this exemption is now consistent with the Applicant's request.

V. Additional Requested Revisions

In addition to the comments noted above, the Applicant requested the Department note the following regarding certain statements in the Proposed Exemption:

A. Paragraph 8 of the proposed exemption states: "For purposes of Section I(g) of PTE 84-14, the date Goldman is sentenced is the Conviction Date." The Applicant notes that, "Goldman Sachs Malaysia" is the pleading entity.

B. Paragraph 10 of the proposed exemption states: "Tim Leissner (Leissner) was employed by Goldman between 1998 and 2016." The Applicant notes that Leissner was never employed by Goldman itself, but by various Goldman subsidiaries.

Comment from the Public

The Department received one comment from the public. The commenter requested that the Department deny the Applicant's exemption request, without raising any substantive issues.

After full consideration and review of the entire record, the Department has decided to grant the exemption, with the modifications discussed above. The complete application file (D-12030) is available in the Public Disclosure Room of the Employee Benefits Security Administration, Room N-1515, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on January 4, 2021 at 86 FR 131.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility

provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) In accordance with section 408(a) of ERISA and section 4975(c)(2) of the Code, the Department makes the following determinations: the exemption is administratively feasible, the exemption is in the interests of affected plans and of their participants and beneficiaries, and the exemption is protective of the rights of participants and beneficiaries of such plans;

(3) The exemption is supplemental to, and not in derogation of, any other provisions of ERISA, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately

describe all material terms of the transaction which is the subject of the exemption.

Accordingly, the following exemption is granted under the authority of section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (76 FR 66637, 66644, October 27, 2011):

EXEMPTION

SECTION I. COVERED TRANSACTIONS

The Goldman Sachs Affiliated QPAMs and the Goldman Sachs Related QPAMs (as defined in Section II (d) and (e)) will not be precluded from relying on the exemptive relief provided by Prohibited Transaction Class Exemption 84-14 (PTE 84-14 or the QPAM Exemption)³ during the Exemption Period, notwithstanding the Goldman Sachs Malaysia Conviction, as defined in Section II(a), provided that the following conditions are satisfied:

(a) Other than a single individual who worked for a non-fiduciary business within a Goldman Sachs Affiliated QPAM, and who had no responsibility for, and exercised no authority in connection with, the management of plan assets, the Goldman Sachs Affiliated QPAMs and Goldman Sachs Related QPAMs (including their officers, directors,

³ 49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430, (October 10, 1985), as amended at 70 FR 49305 (August 23, 2005), and as amended at 75 FR 38837 (July 6, 2010).

agents (other than Goldman Sachs Malaysia), and the employees of the Goldman Sachs Affiliated QPAMs and Goldman Sachs Related QPAMs) did not know of, did not have reason to know of, or did not participate in the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia Conviction. Further, any other party engaged on behalf of the Goldman Sachs Affiliated QPAMs and Goldman Sachs Related QPAMs who had responsibility for, or exercised authority in connection with the management of plan assets did not know of, did not have reason to know of, or participate in the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia Conviction. For purposes of this proposed exemption, "participate in" refers not only to active participation in the criminal conduct that is the subject of the Goldman Sachs Malaysia Conviction, but also to knowing approval of the criminal conduct, or knowledge of such conduct without taking active steps to prohibit such conduct, including reporting the conduct to the individual's supervisors, and to the Board of Directors;

(b) Other than a single individual who worked for a non-fiduciary business within a Goldman Sachs Affiliated QPAM, and who had no responsibility for, and exercised no authority in connection with, the management of plan assets, the Goldman Sachs Affiliated QPAMs and the Goldman Sachs Related QPAMs (including their officers, directors,

agents (other than Goldman Sachs Malaysia), and employees of such Goldman Sachs Affiliated QPAMs) did not receive direct compensation, or knowingly receive indirect compensation, in connection with the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia Conviction. Further, any other party engaged on behalf of the Goldman Sachs Affiliated QPAMs and the Goldman Sachs Related QPAMs who had responsibility for, or exercised authority in connection with the management of plan assets did not receive direct compensation, or knowingly receive indirect compensation, in connection with the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia Conviction;

(c) The Goldman Sachs Affiliated QPAMs do not currently and will not in the future employ or knowingly engage any of the individuals who participated in the criminal conduct of Goldman Sachs Malaysia that is the subject of the Goldman Sachs Malaysia Conviction;

(d) At all times during the Exemption Period, no Goldman Sachs Affiliated QPAM will use its authority or influence to direct an "investment fund" (as defined in Section VI(b) of PTE 84-14) that is subject to ERISA or the Code and managed by such Goldman Sachs Affiliated QPAM with respect to one or more Covered Plans (as defined in Section II(b)) to enter into any transaction with Goldman Sachs Malaysia or to engage Goldman Sachs Malaysia to provide any

service to such investment fund, for a direct or indirect fee borne by such investment fund, regardless of whether such transaction or service may otherwise be within the scope of relief provided by an administrative or statutory exemption;

(e) Any failure of a Goldman Sachs Affiliated QPAM or a Goldman Sachs Related QPAM to satisfy Section I(g) of PTE 84-14 arose solely from the Goldman Sachs Malaysia Conviction;

(f) A Goldman Sachs Affiliated QPAM or a Goldman Sachs Related QPAM did not exercise authority over the assets of any plan subject to Part 4 of Title I of ERISA (an ERISA-covered plan) or section 4975 of the Code (an IRA) in a manner that it knew or should have known would further the criminal conduct that is the subject of the Goldman Sachs Malaysia Conviction; or cause the Goldman Sachs Affiliated QPAM, Related QPAM or its affiliates to directly or indirectly profit from the criminal conduct that is the subject of the Goldman Sachs Malaysia Conviction;

(g) Other than with respect to employee benefit plans maintained or sponsored for its own employees or the employees of an affiliate, Goldman Sachs Malaysia will not act as a fiduciary within the meaning of section 3(21)(A)(i) or (iii) of ERISA, or section 4975(e)(3)(A) and (C) of the Code, with respect to ERISA-covered plan and IRA assets; provided, however, that Goldman Sachs Malaysia will

not be treated as violating the conditions of this exemption solely because they acted as an investment advice fiduciary within the meaning of section 3(21)(A)(ii) of ERISA or section 4975(e)(3)(B) of the Code;

(h)(1) Within six months of the effective date of this five-year exemption, each Goldman Sachs Affiliated QPAM must develop, maintain, implement, and follow written policies and procedures (the Policies). The Policies must require, and must be reasonably designed to ensure that:

(i) The asset management decisions of the Goldman Sachs Affiliated QPAM are conducted independently of Goldman Sachs' corporate management and business activities, and the corporate management and business activities of Goldman Sachs' Malaysia. This condition does not preclude a Goldman Sachs Affiliated QPAM from receiving publicly available research and other widely available information from Goldman Sachs Malaysia;

(ii) The Goldman Sachs Affiliated QPAM fully complies with ERISA's fiduciary duties, and with ERISA and the Code's prohibited transaction provisions, in each case as applicable with respect to each Covered Plan, and does not knowingly participate in any violation of these duties and provisions with respect to Covered Plans;

(iii) The Goldman Sachs Affiliated QPAM does not knowingly participate in any other person's violation of ERISA or the Code with respect to Covered Plans;

(iv) Any filings or statements made by the Goldman Sachs Affiliated QPAM to regulators, including, but not limited to, the Department, the Department of the Treasury, the Department of Justice, and the Pension Benefit Guaranty Corporation, on behalf of or in relation to Covered Plans, are materially accurate and complete, to the best of such QPAM's knowledge at that time;

(v) To the best of its knowledge at that time, the Goldman Sachs Affiliated QPAM does not make material misrepresentations or omit material information in its communications with such regulators with respect to Covered Plans, or make material misrepresentations or omit material information in its communications with Covered Plans; and

(vi) The Goldman Sachs Affiliated QPAM complies with the terms of this five-year exemption;

(2) Any violation of, or failure to comply with an item in subparagraphs (h)(1)(ii) through (vi), is corrected as soon as reasonably possible upon discovery, or as soon after the QPAM reasonably should have known of the noncompliance (whichever is earlier), and any such violation or compliance failure not so corrected is reported, upon the discovery of such failure to so correct, in writing. This report must be made to the head of compliance and the general counsel (or their functional equivalent) of the relevant Goldman Sachs Affiliated QPAM that engaged in the violation or failure, and the

independent auditor responsible for reviewing compliance with the Policies. A Goldman Sachs Affiliated QPAM will not be treated as having failed to develop, implement, maintain, or follow the Policies, provided that it corrects any instance of noncompliance as soon as reasonably possible upon discovery, or as soon as reasonably possible after the Goldman Sachs Affiliated QPAM reasonably should have known of the noncompliance (whichever is earlier), and provided that it adheres to the reporting requirements set forth in this subparagraph (2);

(3) Within six months of the effective date of the exemption, each Goldman Sachs Affiliated QPAM must develop, maintain, adjust (to the extent necessary) and implement a program of training during the Exemption Period, to be conducted at least annually, for all relevant Goldman Sachs Affiliated QPAM asset/portfolio management, trading, legal, compliance, and internal audit personnel. The Training must:

(i) At a minimum, cover the Policies, ERISA and Code compliance (including applicable fiduciary duties and the prohibited transaction provisions), ethical conduct, the consequences for not complying with the conditions of this exemption (including any loss of exemptive relief provided herein), and the requirement for prompt reporting of wrongdoing; and

(ii) Be conducted by a professional who has

been prudently selected and who has appropriate technical training and proficiency with ERISA and the Code to perform the tasks required by this exemption;

(i)(1) Each Goldman Sachs Affiliated QPAM submits to three audits conducted by an independent auditor, who has been prudently selected and who has appropriate technical training and proficiency with ERISA and the Code, to evaluate the adequacy of, and each Goldman Sachs Affiliated QPAM's compliance with, the Policies and Training described herein. The audit requirement must be incorporated in the Policies. The first audit must cover the twelve month period that ends on the date that is two years following the date of the Goldman Sachs Malaysia Conviction, and must be completed within six months thereafter. The second audit must cover the twelve month period that ends on the date that is four years following the date of the Goldman Sachs Malaysia Conviction, and must be completed within six months thereafter. The third audit must cover the fifth year covered by this exemption, and must be completed within six months thereafter. The corresponding certified Audit Reports must be submitted to the Department no later than 45 days following the completion of the audit.

(2) Within the scope of the audit and to the extent necessary for the auditor, in its sole opinion, to complete its audit and comply with the conditions for relief described herein, and only to the extent such disclosure is

not prevented by state or federal statute, or involves communications subject to attorney-client privilege, each Goldman Sachs Affiliated QPAM and, if applicable, Goldman Sachs, will grant the auditor unconditional access to its business, including, but not limited to: its computer systems; business records; transactional data; workplace locations; training materials; and personnel. Such access is limited to information relevant to the auditor's objectives as specified by the terms of this exemption;

(3) The auditor's engagement must specifically require the auditor to determine whether each Goldman Sachs Affiliated QPAM has developed, implemented, maintained, and followed the Policies in accordance with the conditions of this five-year exemption, and has developed and implemented the Training, as required herein;

(4) The auditor's engagement must specifically require the auditor to test each Goldman Sachs Affiliated QPAM's operational compliance with the Policies and Training. In this regard, the auditor must test, for each Goldman Sachs Affiliated QPAM, a sample of such Goldman Sachs Affiliated QPAM's transactions involving Covered Plans, sufficient in size and nature to afford the auditor a reasonable basis to determine such Goldman Sachs Affiliated QPAM's operational compliance with the Policies and Training;

(5) For each audit, on or before the end of the relevant period described in Section I(i)(1) for completing the audit, the auditor must issue a written report (the Audit Report) to Goldman Sachs and the Goldman Sachs Affiliated QPAM to which the audit applies that describes the procedures performed by the auditor in connection with its examination. The auditor, at its discretion, may issue a single consolidated Audit Report that covers all the Goldman Sachs Affiliated QPAMs. The Audit Report must include the auditor's specific determinations regarding:

(i) The adequacy of each Goldman Sachs Affiliated QPAM's Policies and Training; each Goldman Sachs Affiliated QPAM's compliance with the Policies and Training; the need, if any, to strengthen such Policies and Training; and any instance of the respective Goldman Sachs Affiliated QPAM's noncompliance with the written Policies and Training described in Section I(h) above. The Goldman Sachs Affiliated QPAM must promptly address any noncompliance. The Goldman Sachs Affiliated QPAM must promptly address or prepare a written plan of action to address any determination as to the adequacy of the Policies and Training and the auditor's recommendations (if any) with respect to strengthening the Policies and Training of the respective Goldman Sachs Affiliated QPAM. Any action taken or the plan of action to be taken by the respective Goldman Sachs Affiliated QPAM must be included

in an addendum to the Audit Report (such addendum must be completed prior to the certification described in Section I(i)(7) below). In the event such a plan of action to address the auditor's recommendation regarding the adequacy of the Policies and Training is not completed by the time of submission of the Audit Report, the following period's Audit Report must state whether the plan was satisfactorily completed. Any determination by the auditor that a Goldman Sachs Affiliated QPAM has implemented, maintained, and followed sufficient Policies and Training must not be based solely or in substantial part on an absence of evidence indicating noncompliance. In this last regard, any finding that a Goldman Sachs Affiliated QPAM has complied with the requirements under this subparagraph must be based on evidence that the particular Goldman Sachs Affiliated QPAM has actually implemented, maintained, and followed the Policies and Training required by this exemption. Furthermore, the auditor must not solely rely on the Exemption Report created by the Compliance Officer, as described in Section I(m) below, as the basis for the auditor's conclusions in lieu of independent determinations and testing performed by the auditor as required by Section I(i)(3) and (4) above; and

(ii) The adequacy of the Exemption Review described in Section I(m);

(6) The auditor must notify the respective Goldman Sachs Affiliated QPAM of any instance of noncompliance identified by the auditor within five (5) business days after such noncompliance is identified by the auditor, regardless of whether the audit has been completed as of that date;

(7) With respect to each Audit Report, the general counsel or one of the three most senior executive officers of the Goldman Sachs Affiliated QPAM to which the Audit Report applies, must certify in writing, under penalty of perjury, that the officer has reviewed the Audit Report and this exemption; that, to the best of such officer's knowledge at the time, the Goldman Sachs Affiliated QPAM has addressed, corrected, and remedied any noncompliance and inadequacy or has an appropriate written plan to address any inadequacy regarding the Policies and Training identified in the Audit Report. This certification must also include the signatory's determination that, to the best of the officer's knowledge at the time, the Policies and Training in effect at the time of signing are adequate to ensure compliance with the conditions of this exemption, and with the applicable provisions of ERISA and the Code. Notwithstanding the above, no person, including any person referenced in the Department of Justice's Statement of Facts that gave rise to the Plea Agreement, who knew of, or should have known of, or participated in, any misconduct

described in the Statement of Facts, by any party, may provide the certification required by this exemption, unless the person took active documented steps to stop the misconduct;

(8) The Goldman Sachs Board of Directors is provided a copy of the Audit Report; a senior executive officer of the Audit Committee established by the Goldman Sachs Board of Directors, the general counsel of the Goldman Sachs Affiliated QPAM to which the Audit Report applies, one of the three most senior executive officers of the Goldman Sachs Affiliated QPAM to which the Audit Report applies, or the Chief Compliance Officer of Goldman Sachs must (i) review the Audit Report for each Goldman Sachs QPAM with the Chairperson of the Audit Committee and (ii) must certify in writing, under penalty of perjury, that such officer has reviewed the Audit Report, a copy of such Audit Report was provided to the Board of Directors, and that the Audit Report was reviewed with and by the Chairperson of the Audit Committee;

(9) Each Goldman Sachs Affiliated QPAM provides its certified Audit Report, by regular mail to: Office of Exemption Determinations (OED), 200 Constitution Avenue NW, Suite 400, Washington, DC 20210. This delivery must take place no later than 45 days following completion of the Audit Report. The Audit Reports will be made part of the public record regarding this five-year exemption.

Furthermore, each Goldman Sachs Affiliated QPAM must make its Audit Reports unconditionally available, electronically or otherwise, for examination upon request by any duly authorized employee or representative of the Department, other relevant regulators, and any fiduciary of a Covered Plan;

(10) Any engagement agreement with an auditor to perform the audit required by this exemption must be submitted to OED no later than two months after the execution of such agreement;

(11) The auditor must provide the Department, upon request, for inspection and review, access to all the workpapers created and used in connection with the audit, provided such access and inspection is otherwise permitted by law; and

(12) Goldman Sachs or a Goldman Sachs Affiliated QPAM must notify the Department of a change in the independent auditor no later than two months after the engagement of a substitute or subsequent auditor and must provide an explanation for the substitution or change including a description of any material disputes involving the terminated auditor;

(j) As of the effective date of this five-year exemption, with respect to any arrangement, agreement, or contract between a Goldman Sachs Affiliated QPAM and a Covered Plan, the Goldman Sachs Affiliated QPAM agrees and

warrants to Covered Plans:

(1) To comply with ERISA and the Code, as applicable with respect to such Covered Plan; to refrain from engaging in prohibited transactions that are not otherwise exempt (and to promptly correct any prohibited transactions); and to comply with the standards of prudence and loyalty set forth in section 404 of ERISA with respect to each such ERISA-covered plan and IRA to the extent that section 404 is applicable;

(2) To indemnify and hold harmless the Covered Plan for any actual losses resulting directly from a Goldman Sachs Affiliated QPAM's violation of ERISA's fiduciary duties, as applicable, and of the prohibited transaction provisions of ERISA and the Code, as applicable, a breach of contract by the QPAM, or any claim arising out of the failure of such Goldman Sachs Affiliated QPAM to qualify for the exemptive relief provided by PTE 84-14 as a result of a violation of Section I(g) of PTE 84-14 other than the Goldman Sachs Malaysia Conviction. This condition applies only to actual losses caused by the Goldman Sachs Affiliated QPAM's violations.

(3) Not to require (or otherwise cause) the Covered Plan to waive, limit, or qualify the liability of the Goldman Sachs Affiliated QPAM for violating ERISA or the Code or engaging in prohibited transactions;

(4) Not to restrict the ability of such Covered Plan

to terminate or withdraw from its arrangement with the Goldman Sachs Affiliated QPAM, with the exception of reasonable restrictions, appropriately disclosed in advance, that are specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors. In connection with any such arrangements involving investments in pooled funds subject to ERISA entered into after the effective date of this exemption, the adverse consequences must relate to a lack of liquidity of the underlying assets, valuation issues, or regulatory reasons that prevent the fund from promptly redeeming an ERISA-covered plan's or IRA's investment, and such restrictions must be applicable to all such investors and be effective no longer than reasonably necessary to avoid the adverse consequences;

(5) Not to impose any fees, penalties, or charges for such termination or withdrawal with the exception of reasonable fees, appropriately disclosed in advance, that are specifically designed to prevent generally recognized abusive investment practices or specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors, provided that such fees are applied consistently and in a like manner to all such investors; and

(6) Not to include exculpatory provisions disclaiming or otherwise limiting liability of the Goldman Sachs Affiliated QPAM for a violation of such agreement's terms. To the extent consistent with Section 410 of ERISA, however, this provision does not prohibit disclaimers for liability caused by an error, misrepresentation, or misconduct of a plan fiduciary or other party hired by the plan fiduciary who is independent of Goldman Sachs and its affiliates, or damages arising from acts outside the control of the Goldman Sachs Affiliated QPAM;

(7) Within four (4) months of the effective date of this five-year exemption, each Goldman Sachs Affiliated QPAM must provide a notice of its obligations under this Section I(j) to each Covered Plan. For prospective Covered Plans that enter into a written asset or investment management agreement with a Goldman Sachs Affiliated QPAM on or after a date that is four (4) months after the effective date of this exemption, the Goldman Sachs Affiliated QPAM must agree to its obligations under this Section I(j) in an updated investment management agreement between the Goldman Sachs Affiliated QPAM and such clients, or other written contractual agreement. Notwithstanding the above, a Goldman Sachs Affiliated QPAM will not violate the condition solely because a Plan or IRA refuses to sign an updated investment management agreement;

(k) Within 60 days of the effective date of this

five-year exemption, each Goldman Sachs Affiliated QPAM will provide a Federal Register copy of the notice of the exemption, along with a separate summary describing the facts that led to the Goldman Sachs Malaysia FCPA Conviction (the Summary), which has been submitted to the Department, and a prominently displayed statement (the Statement) that the Goldman Sachs Malaysia FCPA Conviction results in a failure to meet a condition in PTE 84-14, to each sponsor and beneficial owner of a Covered Plan that has entered into a written asset or investment management agreement with a Goldman Sachs Affiliated QPAM, or the sponsor of an investment fund in any case where a Goldman Sachs Affiliated QPAM acts as a sub-advisor to the investment fund in which such ERISA-covered plan and IRA invests. All prospective Covered Plan clients that enter into a written asset or investment management agreement with a Goldman Sachs Affiliated QPAM after a date that is 60 days after the effective date of this exemption must receive a copy of the notice of the exemption, the Summary, and the Statement prior to, or contemporaneously with, the Covered Plan's receipt of a written asset or investment management agreement from the Goldman Sachs Affiliated QPAM. The notices may be delivered electronically (including by an email that has a link to the five-year exemption);

(l) The Goldman Sachs Affiliated QPAMs must comply with each condition of PTE 84-14, as amended, with the sole exception of the violation of Section I(g) of PTE 84-14 that is attributable to the Goldman Sachs Malaysia Conviction. If, during the Exemption Period, an entity within the Goldman Sachs corporate structure is convicted of a crime described in Section I(g) of PTE 84-14 (other than the Goldman Sachs Malaysia Conviction), relief in this exemption would terminate immediately;

(m) (1) Within 60 days of the effective date of this exemption, each Goldman Sachs Affiliated QPAM must designate a senior compliance officer (the Compliance Officer) who will be responsible for compliance with the Policies and Training requirements described herein. For purposes of this condition (m), each Goldman Sachs Affiliated QPAM or applicable line of business may designate its own Compliance Officer(s). Notwithstanding the above, no person, including any person referenced in the Department of Justice's Statement of Facts that gave rise to the Plea Agreement, who knew of, or should have known of, or participated in, any misconduct described in the Statement of Facts, by any party, may be involved with the designation or responsibilities required by this condition, unless the person took active documented steps to stop the misconduct. The Compliance Officer must conduct a review of each twelve month period of the

Exemption Period (the Exemption Review), to determine the adequacy and effectiveness of the implementation of the Policies and Training. With respect to the Compliance Officer, the following conditions must be met:

(i) The Compliance Officer must be a professional who has extensive experience with, and knowledge of, the regulation of financial services and products, including under ERISA and the Code; and

(ii) The Compliance Officer must be: (i) a compliance officer who regularly reports to the Audit Committee; or (ii) the highest-ranking compliance officer at the applicable Goldman Sachs Affiliated QPAM or line of business.

(2) With respect to the Exemption Review, the following conditions must be met:

(i) The Exemption Review includes a review of the Goldman Sachs Affiliated QPAMs' compliance with and effectiveness of the Policies and Training and of the following: any compliance matter related to the Policies or Training that was identified by, or reported to, the Compliance Officer or the Audit Committee, during the previous year; the most recent Audit Report issued pursuant to this exemption; any material change in the relevant business activities of the Goldman Sachs Affiliated QPAMs; and any change to ERISA, the Code, or regulations related to fiduciary duties and the prohibited transaction

provisions that may be applicable to the activities of the Goldman Sachs Affiliated QPAMs;

(ii) The Compliance Officer prepares a written report for the Exemption Review (an Exemption Report) that (A) summarizes his or her material activities during the prior year; (B) sets forth any instance of noncompliance discovered during the prior year, and any related corrective action; (C) details any change to the Policies or Training to guard against any similar instance of noncompliance occurring again; and (D) makes recommendations, as necessary, for additional training, procedures, monitoring, or additional and/or changed processes or systems, and management's actions on such recommendations;

(iii) In the Exemption Report, the Compliance Officer must certify in writing that to the best of his or her knowledge at the time: (A) the report is accurate; (B) the Policies and Training are working in a manner which is reasonably designed to ensure that the Policies and Training requirements described herein are met; (C) any known instance of noncompliance during the prior year and any related correction taken to date have been identified in the Exemption Report; and (D) the Goldman Sachs Affiliated QPAMs have complied with the Policies and Training, and/or corrected (or are correcting) any known instances of noncompliance in accordance with Section I(h)

above;

(iv) The Exemption Report must be provided to appropriate corporate officers of Goldman Sachs and Goldman Sachs Affiliated QPAM to which such report relates, and to the head of compliance and the general counsel (or their functional equivalent) of Goldman Sachs and the relevant Goldman Sachs Affiliated QPAM; and the report must be made unconditionally available to the independent auditor described in Section I(i) above;

(v) The first Exemption Review, including the Compliance Officer's written Exemption Report, must cover the twelve month period beginning on the date of the Goldman Sachs Malaysia Conviction. The next four Exemption Reviews and Exemption Reports must each cover a twelve month period that begins on the date that follows the end of a prior Exemption Review coverage period. Each Annual Review, including the Compliance Officer's written Annual Report, must be completed within three months following the end of the period to which it relates;

(n) Goldman Sachs imposes its internal procedures, controls, and protocols on Goldman Sachs Malaysia to reduce the likelihood of any recurrence of conduct that is the subject of the Goldman Sachs Malaysia Conviction;

(o) Goldman Sachs complies in all material respects with the requirements imposed by a U.S regulatory authority in connection with the Goldman Sachs Malaysia Conviction;

(p) Each Goldman Sachs Affiliated QPAM will maintain records necessary to demonstrate that the conditions of this exemption have been met for six years following the date of any transaction for which such Goldman Sachs Affiliated QPAM relies upon the relief in this exemption;

(q) During the Exemption Period, Goldman Sachs must:

(1) immediately disclose to the Department any Deferred Prosecution Agreement (a DPA) or Non-Prosecution Agreement (an NPA) with the U.S. Department of Justice, entered into by The Goldman Sachs Group, Inc. or any of its affiliates (as defined in Section VI(d) of PTE 84-14) in connection with conduct described in Section I(g) of PTE 84-14 or section 411 of ERISA; and (2) immediately provide the Department any information requested by the Department, as permitted by law, regarding the agreement and/or conduct and allegations that led to the agreement;

(r) Within 60 days of the effective date set forth in Section I(h)(1), each Goldman Sachs Affiliated QPAM, in its agreements with, or in other written disclosures provided to Covered Plans, will clearly and prominently inform Covered Plan clients of their right to obtain a copy of the Policies or a description (Summary Policies) which accurately summarizes key components of the Goldman Sachs Affiliated QPAM's written Policies developed in connection with this exemption. If the Policies are thereafter changed, each Covered Plan client must receive a new

disclosure within six months following the end of the calendar year during which the Policies were changed.⁴ With respect to this requirement, the description may be continuously maintained on a website, provided that such website link to the Policies or Summary Policies is clearly and prominently disclosed to each Covered Plan; and

(s) A Goldman Sachs Affiliated QPAM will not fail to meet the terms of this five-year exemption solely because a different Goldman Sachs Affiliated QPAM fails to satisfy a condition for relief described in Sections I(c), (d), (h), (i), (j), (k), (l), (p) or (r); or if the independent auditor described in Section I(i) fails a provision of the exemption other than the requirement described in Section I(i)(11), provided that such failure did not result from any actions or inactions of Goldman Sachs or its affiliates.

SECTION II. DEFINITIONS

(a) The term "Goldman Sachs Malaysia FCPA Conviction" means the judgment of conviction against Goldman Sachs Malaysia in connection with a U.S. plea by Goldman Sachs Malaysia to one count of conspiracy to commit offenses against the United States, in violation of Title 18, United

⁴ In the event the Applicant meets this disclosure requirement through Summary Policies, changes to the Policies shall not result in the requirement for a new disclosure unless, as a result of changes to the Policies, the Summary Policies are no longer accurate.

States Code, Section 371, that is, to violate the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977, as amended, see Title 15, United States Code, Sections 78dd-1 and 78dd-3.

(b) The term "Covered Plan" means a plan subject to Part IV of Title I of ERISA (an "ERISA-covered plan") or a plan subject to section 4975 of the Code (an "IRA"), in each case, with respect to which a Goldman Sachs Affiliated QPAM relies on PTE 84-14, or with respect to which a Goldman Sachs Affiliated QPAM (or any Goldman Sachs affiliate) has expressly represented that the manager qualifies as a QPAM or relies on the QPAM class exemption (PTE 84-14). A Covered Plan does not include an ERISA-covered plan or IRA to the extent the Goldman Sachs Affiliated QPAM has expressly disclaimed reliance on QPAM status or PTE 84-14 in entering into a contract, arrangement, or agreement with the ERISA-covered plan or IRA.

(c) The term "Goldman Sachs" means The Goldman Sachs Group, Inc.

(d) The term "Goldman Sachs Affiliated QPAMs" means The Goldman Sachs Trust Company, N.A.; Goldman Sachs Bank USA; Goldman Sachs & Co. LLC; Goldman Sachs Asset Management, L.P.; Goldman Sachs Asset Management International; Goldman Sachs Hedge Fund Strategies LLC; GS Investment Strategies, LLC; GSAM Stable Value, LLC; The

Ayco Company, L.P.; Aptitude Investment Management LP; Rocaton Investment Advisors, LLC; United Capital Financial Advisers, LLC; and PFE Advisors, Inc., and any current or future "affiliate" of Goldman Sachs (as defined in Part VI(d) of PTE 84-14) that qualifies as a "qualified professional asset manager" (as defined in Section VI(a) of PTE 84-14)⁵ and that relies on the relief provided by PTE 84-14 and with respect to which Goldman Sachs is a current or future "affiliate" (as defined in Section VI(d) of PTE 84-14). The term "Goldman Sachs Affiliated QPAMs" excludes Goldman Sachs Malaysia.

(e) The term Goldman Sachs Related QPAMs means any current or future "qualified professional asset manager" (as defined in Section VI(a) of PTE 84-14) that relies on the relief provided by PTE 84-14, and with respect to which Goldman Sachs owns a direct or indirect five (5) percent or more interest, but with respect to which Goldman Sachs is not an "affiliate" (as defined in section VI(d)(1) of PTE 84-14). The term "Goldman Sachs Related QPAMs" excludes Goldman Sachs Malaysia.

(f) The term Goldman Sachs Malaysia means Goldman Sachs (Malaysia) Sdn. Bhd.

(g) The term "Exemption Period" means the five-year

⁵ In general terms, a QPAM is an independent fiduciary that is a bank, savings and loan association, insurance company, or investment adviser that meets certain equity or net worth requirements and other licensure requirements and that has acknowledged in a written management agreement that it is a fiduciary with respect to each plan that has retained the QPAM.

period beginning on the date Goldman Sachs Malaysia is sentenced for one count of conspiracy to commit offenses against the United States, in violation of Title 18, United States Code, Section 371, that is, to violate the anti-bribery provisions of the Foreign Corrupt Practices Act of 1977, as amended, see Title 15, United States Code, Sections 78dd-1 and 78dd-3.

(h) The term "Plea Agreement" means the Plea Agreement entered into between the United States of America, by and through the United States Department of Justice, Criminal Division, Fraud Section and Money Laundering and Asset Recovery Section, and the United States Attorney's Office for the Eastern District of New York and Goldman Sachs (Malaysia) Sdn. Bhd. Cr. No. 20-438 (MKB) .

Effective Date: This exemption will be in effect for a period of up to five (5) years, beginning on the date of the conviction of Goldman Sachs (Malaysia) Sdn. Bhd.

Signed at Washington, DC, this 24th day of May, 2021.

Christopher Motta,

*Chief, Division of Individual Exemptions,
Office of Exemption Determinations,
Employee Benefits Security Administration,
U.S. Department of Labor.*